

REMARKS

Claims 1, 8, and 15 are in the case. Applicants have amended claims 1, 8, and 15 in this application. The present claim amendments are for facilitating expeditious prosecution of the present case. Applicants are not conceding in this application that those claims are not patentable over the art cited in the Office Action. Applicants respectfully reserve the right to pursue these and other claims in one or more continuations or divisional patent applications.

Claim Rejections – 35 U.S.C. § 102 Over Markel

Claims 1, 8, and 15 stand rejected under 35 U.S.C. § 102(e) as being anticipated by Markel, *et al.* (U.S. Publication No. 2002/0174425) (hereafter 'Markel'). "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Markel does not disclose each and every element of claim 1, and Markel therefore does not anticipate the claims of the present application within the meaning of 35 U.S.C. § 102(e).

Independent claim 1 claims a method for controlling devices connected to a network includes, among other elements, responsive to receiving the user metric and receiving the network device content metadata, transmitting, by the controller, a signal to a second network device to change it's physical output; and responsive to the signal, generating, by the second network device, a second form of physical output. That is, claim 1 claims administering a second device in dependence upon the network device content metadata describing one or more characteristics of content sent over the network to a first network device. Page 41, lines 4-11 of Applicants' original specification states:

In many examples of the method of Figure 5, the identified action administers one device in dependence upon the device content of another

device. That is, the device content metadata received from one device is used to identify an action designed to administer another device. Using device content metadata from one device to administer other devices advantageously allows a user's experience with one device to be used in administering other devices for the user without requiring user intervention.

In stark contrast to claim 1, Markel discloses a system and method for generating affinity data that indicates the interest of a viewer or user in broadcast information such as a video, audio or data broadcast. *See for example, Markel, abstract.* Markel states at paragraph 0055, "The present invention therefore provides a unique system and method for capturing affinity data that can be used for various purposes including selection of video, audio and data feed, generation of affinity data in real-time for modification of content, statistical analysis, and other various purposes." Markel does not disclose transmitting a signal to a second network device to change its physical output and generating, by the second network device, a second form of physical output in response to responsive to receiving a user metric and receiving network device content metadata representing one or more characteristics of content sent over the network to a first network device. Markel therefore does not disclose each and every element of claim 1. The rejection of claim 1 should therefore be withdrawn.

Relations Among Claims

Independent claims 8 and 15 are system and computer program product claims for controlling devices connected to a network corresponding to independent method claim 1 that include "means for" and "means, recorded on a recording medium, for" administering devices. For the same reason that Markel does not disclose a method for controlling devices as claimed in claim 1, Markel also does not disclose systems and computer program products for controlling devices corresponding to independent claims 8 and 15. Independent claims 8 and 15 are therefore patentable and should be allowed.

Conclusion

Claims 1, 8, and 15 have been amended to facilitate expeditious prosecution of the case. Each and every element of amended claims 1, 8, and 15 is not disclosed by Markel and Markel therefore does not anticipate the claims of the present application within the meaning of 35 U.S.C. § 102(e). Applicants respectfully submit that in view of the present amendments and remarks this case is now in condition for allowance. Applicants request allowance of claims 1, 8, and 15.

The Commissioner is hereby authorized to charge or credit Deposit Account No. 09-0447 for any fees required or overpaid.

Respectfully submitted,

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